

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANIEL N. DUNCAN et al.

Application 09/547,627

MAILED

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PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL

This application was received at the Board of Patent Appeals and Interferences on February 6, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Applicant filed on August 13, 2002, an Appeal Brief (Paper No. 13) in response to the Final Rejection entered on April 10, 2002 (Paper No. 8). The Appeal Brief, in the section entitled "Issue" on page 2 and in the section entitled "Argument" on pages 3-7, fails to address the rejection of claims 2, 36, 45, and 47 under 103(a) as unpatentable over Walker et al. (U.S. Patent No. 6,088,444) as applied to claims 1, 33, and 44 and in view of Rogers et al. (U.S. Patent No. 5,946,386). Both the Final Rejection, and the Examiner's Answer which was entered on November 5, 2002 (Paper No. 14), contain this rejection.

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Furthermore, in the Advisory Action of July 5, 2002 (Paper No. 12), the examiner denied entry of the Amendment on June 14, 2002, Amendment C (Paper No. 10). However, there is written on Amendment C "ENTER 11/01/02." Currently, Amendment C does not appear to be physically entered nor does the Appendix, which was filed with the Appeal Brief, reflect the changes presented in Amendment C.

Accordingly, it is

ORDERED that the application is returned to the examiner for obtaining from applicant a response addressing the 35 USC 103(a) rejection of claims 2, 36, 45, and 47, clarification of the status of Amendment C, and for such further action as may be appropriate.

**BOARD OF PATENT APPEALS
AND INTERFERENCES**

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